

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

76th STREET LAND, LLC,

Plaintiff,

v.

**GUIDEONE ELITE INSURANCE
COMPANY,**

Defendant.

Case No. CIV-20-1021-G

ORDER

Now before the Court is Plaintiff 76th Street Land, LLC's Motion to Dismiss Without Prejudice (Doc. No. 32). Defendant GuideOne Elite Insurance Company responded in opposition (Doc. No. 33), and Plaintiff replied (Doc. No. 34).

Plaintiff moves to voluntarily dismiss its claims without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Rule 41(a)(2) provides that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper," and "[u]nless the order states otherwise, a dismissal under this paragraph (2) is without prejudice." "Absent legal prejudice to the defendant, the district court normally should grant such a dismissal." *Ohlander v. Larson*, 114 F.3d 1531, 1537 (10th Cir. 1997) (internal quotation marks omitted). Non-exclusive factors for evaluation of legal prejudice include "the opposing party's effort and expense in preparing for trial; excessive delay and lack of diligence on the part of the movant; insufficient explanation of the need for a dismissal; and the present stage of litigation." *Id.* "Each factor need not be resolved in

favor of the moving party for dismissal to be appropriate, nor need each factor be resolved in favor of the opposing party for denial of the motion to be proper.” *Id.*


Considering the parties’ arguments in their motion papers and the early stage of this litigation, the Court GRANTS Plaintiff’s Motion for voluntary dismissal. The action is therefore DISMISSED WITHOUT PREJUDICE. Further, pursuant to Rule 41(a)(2), the Court DIRECTS the parties as follows:

1. Unless the parties agree or the Court orders otherwise, the parties shall preserve any materials exchanged by them or obtained from a third party in the course of discovery until such time as the limitations period for Plaintiff to file a claim against Defendant expires; and

2. The parties shall, to the extent possible, make all reasonable efforts to avoid duplicative discovery in any further proceeding between them, or any related person or entity, concerning the same subject matter.

Plaintiff’s pending Motion to Quash, Motion for a Protective Order, and Motion to Stay Discovery (Doc. No. 40) are MOOT and are DENIED on that basis.

IT IS SO ORDERED this 27th day of July, 2021.



CHARLES B. GOODWIN
United States District Judge